

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

LUIS VALLEJO,

Defendant.

8:13-CR-244

MEMORANDUM AND ORDER

This matter is before the Court on the defendant Luis Vallejo's objections (filing 111) to the Findings and Recommendation (filing 109) of the Magistrate Judge Thomas D. Thalken, recommending that Vallejo's motion to suppress (filing 52 as amended by filing 72) be denied. The Court has conducted a de novo review of Vallejo's motion to suppress, pursuant to 28 U.S.C. § 636(b)(1). The Court concurs in the Magistrate Judge's factual findings, analysis, and conclusions of law, and finds Vallejo's objections to be without merit. The Court will therefore adopt the Findings and Recommendation.

The Court writes briefly to address one matter raised in Vallejo's objection that was not explicitly discussed in the Findings and Recommendation. Vallejo's motion addressed, in part, a search warrant for an apartment in which Vallejo was staying. The warrant authorized police officers to search the apartment for methamphetamine, proceeds from its sale, and other evidence of the sale of methamphetamine. Vallejo argues that the officers lacked justification to search his suitcase, which was located in the apartment, because the suitcase was not listed in the warrant.

It is well-established, however, that the

lawful search of fixed premises generally extends to the entire area in which the object of the search may be found and is not limited by the possibility that separate acts of entry or opening may be required to complete the search. Thus, a warrant that authorizes an officer to search a home for illegal weapons also provides authority to open closets, chests, drawers, and containers in which the weapon might be found.

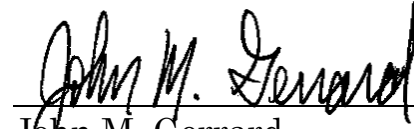
United States v. Ross, 456 U.S. 798, 821 (1982); *see also United States v. Romo-Corrales*, 592 F.3d 915, 919–20 (8th Cir. 2010). The officers were entirely justified in believing that Vallejo's suitcase could contain any of the objects listed in the warrant. Accordingly, this objection, like the remainder of Vallejo's objections, is without merit.

THEREFORE, IT IS ORDERED:

1. The Court adopts the Magistrate Judge's Findings and Recommendation (filing 109).
2. Vallejo's objections (filing 111) are overruled.
3. Vallejo's motion to suppress (filing 52 as amended by filing 72) is denied.

Dated this 4th day of December, 2013.

BY THE COURT:



John M. Gerrard
United States District Judge